

Attorney Docket No.: J6886(C)
Serial No.: 10/828,906
Filed: April 21, 2004
Confirmation No.: 5655

REMARKS

The present amendment is submitted in an earnest effort to advance the case to issue without delay.

Claim 1 has been amended to incorporate reference to the Color Rating Chart Score found in the specification under Example 8 and Table IX. New claims 14 and 15 provide narrower ranges for the Color Rating Chart Score.

Claims 1-2, 4-6 and 10-13 were rejected under 35 U.S.C. §103(a) over Rodrigues et al. (U.S. Patent Application Publication No. 2004/0266921) in view of Alaluf et al. (U.S. Patent 6,287,553). Applicant traverses this rejection.

Personal care products often can be rather sensitive to degradation. Heat or extended storage can cause unsightly color changes. Key culprits are ingredients with one or more double bonds in their structure. Of particular susceptibility to photo and/or oxidative degradation are materials that have two olefinic double bonds in a conjugated relationship. This breeds color bodies.

Applicant has surprisingly found that certain types of substituted urea compounds, especially those with hydroxyalkyl groups inhibit the formation of unsightly color. Most particularly, Applicant has identified a degradative problem with the conjugated linoleic acids and discovered substituted urea compounds as a solution.

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Amended claim 1 focuses on the benefit interaction of the claim substituted urea compounds with respect to degradation of the conjugated linoleic acids. Claim 1 recites the results of the overall composition as having a Color Rating Chart Score that does not exceed 10.

Rodrigues et al. was cited for disclosing hydroxyalkyl ureas solving a hydration problem experienced with aqueous-based polymer compositions. Alaluf et al. was cited for disclosing conjugated linoleic acid (CLA) in a dermatologically acceptable carrier.

A combination of Rodrigues et al. in view of Alaluf et al. would not render the instant invention obvious. Neither of the references mentions CLA as a color body generating material. Neither are the hydroxyalkyl ureas known for stabilizing chemicals to avoid color generation. The references do not disclose a color test of any kind. Most certainly, neither of the references disclose compositions that have Color Rating Chart Scores below 10. The Examiner has not presented a *prima facie* case of obviousness. The Color Rating Chart Score element is not found in the cited art.

Claims 1-2, 4-6 and 10-13 were rejected under 35 U.S.C. §103(a) as unpatentable over Perricone (US Patent 6,296,861) in view of Moller et al. (EP 2 703 185). Applicant traverses this rejection.

Perricone was cited as teaching use of CLA for treatment of damaged skin. No mention is made of hydroxyalkyl urea. There is no discussion that CLA have an instability problem resulting in color body formation.

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Moller et al. was introduced as teaching hydroxyalkyl ureas in cosmetics compositions as skin moisturizers. This secondary reference utilizes the ureas for retaining and/or storing water within the skin to keep it soft and flexible. No mention is made that these ureas could function to prevent color body formation, particularly those associated with degradation of CLA.

A combination of Perricone in view of Moller et al. would not render the instant invention obvious. Perricone mentions CLA but not the propensity of this material to degrade and cause color body formation in the compositions. Moller et al. utilizes hydroxyalkyl ureas as moisturization agents. Nothing is said or suggested that the ureas have any functionality against inhibiting color bodies. Thus, neither the primary reference nor the secondary one teach the fundamental problem which applicant sought to address and neither of the references suggest that hydroxyalkyl ureas could solve that problem. Any person of skill in the art would, therefore, be clueless about the existence of the color formation issue with CLA and with the hydroxyalkyl urea solution to that problem.

Furthermore, neither of the references discloses any color test. Particularly, the references fail to disclose anything resembling applicant's Color Rating Chart Score over the requirement that the score is to be a maximum of 10. The color rating is not a "mysterious" parameter that goes to the heart of the present invention. The Examiner has not presented a *prima facie* case with respect to this element of the claims.

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In view of the foregoing amendment and comments, applicant requests the Examiner to reconsider the rejection and now allow the claims.

Respectfully submitted,

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